

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

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v.

No. 1:22-CR-00216-RP

(2) MARIO OCHOA,
Defendant

ORDER

Before the Court is the U.S. Pretrial Services Office's Petition for Action on Conditions of Pretrial Release, Dkt. 252. The undersigned set a hearing on the petition to be held in accordance with 18 U.S.C. § 3148, Dkt. 255, and held the hearing on February 28, 2023.

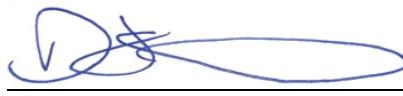
Ochoa's indictment charges him, along with several co-defendants, with conspiracy to possess with intent to distribute cocaine. Dkt. 1. Authorities arrested Ochoa in October 2022, Dkt. 16, and the undersigned released Ochoa on bond following his initial appearance, Dkt. 25 (Order Setting Conditions of Release). Ochoa has pleaded guilty to the charge and is scheduled to be sentenced next month. Dkts. 186, 245. Pretrial's petition alleges that Ochoa violated condition 7(m) of the Order Setting Conditions of Release, which states that Ochoa may "not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner." Dkt. 252. The petition goes on to explain that on two occasions, in December 2023 and January 2024, Ochoa provided urine samples that tested positive for marijuana use. *Id.* The petition

further states that Ochoa admitted to both violations. Prior to the hearing, the undersigned learned from Pretrial that Ochoa admitted to having used marijuana again in mid-February, and at the hearing, the Assistant U.S. Attorney stated that Ochoa had tested positive for marijuana use on two other occasions several months ago that were not mentioned in the petition.

The Government argues that Ochoa has demonstrated that he is unable to abide by the conditions set by the Court and that, therefore, his pretrial release should be revoked and that he should be detained pending the final disposition of his case. Ochoa, through his counsel, argued that he should be permitted to remain out on the conditions currently in place and that his violations can be addressed by the District Judge at sentencing. For the reasons stated on the record, the undersigned agrees that, at this time, Defendant should remain out of custody on the conditions set out in Dkt. 25.

Accordingly, the Court **DENIES** Pretrial's petition, Dkt. 252, and **ORDERS** that Ochoa remain on release subject to the Order Setting Conditions of Release, Dkt. 25.

SIGNED February 29, 2024.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATE JUDGE